

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. On October 2, 2007 the Department notified the petitioner that his Food Stamps were being terminated effective November 1, 2007 because he would not be receiving fuel assistance for the 2007-2008 heating season, and as a result no longer qualified for the standard fuel and utility deduction, which is based on eligibility for fuel assistance.

It appears that the petitioner had neglected to apply for fuel assistance.

3. Upon receiving this notice, the petitioner called the Department, which advised him to apply for fuel assistance. However, the Department did not process an appeal on his behalf, and his Food Stamps were closed for November and December 2007.

4. On December 12, 2007, at an annual review of the petitioner's eligibility for Food Stamps, the Department learned that the petitioner had returned to work in August 2007, which would have reduced or eliminated his eligibility for Food Stamps as of September 2007. On December 17, 2007, the Department notified the petitioner that his Food Stamps would close effective January 1, 2008 due to his additional employment income. The petitioner appealed this decision on December 19, 2007.

5. At a hearing in the matter held on January 16, 2008, the Department informed the petitioner and the hearing officer that it had reinstated his Food Stamps at \$104 a month, effective January 1, 2008, pending the appeal of all issues in this matter. The Department agreed to continue the matter to see if the petitioner would be found eligible for fuel assistance based on his tardy application for those

benefits, and, if so, whether this would make him eligible for Food Stamps based on any increase in the fuel and utility deduction the petitioner might be eligible for based on his receipt of fuel assistance.

6. At a hearing held on February 15, 2008, the petitioner reported that he had been found ineligible for fuel assistance for the 2007-2008 heating season. He does not dispute that unless he qualifies for the standard fuel and utility deduction based on eligibility for fuel assistance, his income is in excess of the Food Stamp maximum.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations include all Social Security payments as unearned income. All earnings from employment except those specifically excluded are also counted. See Food Stamp Manual (F.S.M.) § 273.9(b).

Deductions from income are limited to those specifically itemized in the regulations. F.S.M. § 273.9(d). There is no dispute that the petitioner's actual shelter expenses do not qualify him for a shelter deduction. Unless the petitioner

is eligible for fuel assistance, he cannot receive a standard fuel and utility deduction, which may have made him eligible for a minimal payment of Food Stamps.

The petitioner does not dispute that at this time the Department has correctly calculated his income and allowable deductions, and that these amounts do not lower his countable income below \$851, which is the maximum to allow Food Stamps to be payable to a one-person household. See P-2590D.

Inasmuch as the Department's decision in this matter accurately reflects the petitioner's countable income and expenses as of September 2007, and was in accord with the applicable regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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